



## Final Regulation Agency Background Document

<b>Agency name</b>	Alcoholic Beverage Control Board
<b>Virginia Administrative Code (VAC) citation</b>	3 VAC 5-20 and 3 VAC 5-30
<b>Regulation title</b>	Advertising and Tied House
<b>Action title</b>	Amendments to Advertising and Tied-House Regulations to conform to recent General Assembly action and to simplify and update them.
<b>Date this document prepared</b>	October 8, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This action makes several changes to the regulations governing the advertising of alcoholic beverages, as well as to the tied-house regulations, designed to maintain a reasonable separation between manufacturing and wholesaling interests and retailers of alcoholic beverages. Several outdated advertising regulations will be repealed. Others will be modified to conform to statutory changes or to modernize them. The two chapters will be reorganized, moving some provisions dealing with limitations on the provision of advertising materials by manufacturers or wholesalers to retailers from the advertising chapter to the chapter dealing with tied-house restrictions.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On October 8, 2009, the Alcoholic Beverage Control Board took final action to amend 3 VAC 5-20, Advertising, and 3 VAC 5-30, Tied-House.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Title 4.1 of the Code of Virginia gives the Alcoholic Beverage Control Board general authority to regulate the manufacture, distribution and sale of alcoholic beverages within the Commonwealth, including the authority to promulgate regulations which it deems necessary to carry out the provisions of Title 4.1, in accordance with the Administrative Process Act. Section 4.1-320 generally prohibits alcoholic beverage advertising in Virginia, except in accordance with Board regulations. Section 4.1-111, subsection B 3 requires that the Board promulgate regulations which maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers, prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth, and promote reasonable accommodation of arm's length business transactions. The Code mandates that the Board promulgate regulations, but details are left to the Board's discretion.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

The purpose of this action is to develop amendments which will conform the board's advertising and tied-house regulations to statutory amendments enacted by the 2007 General Assembly; reorganize the advertising and tied-house chapters; and eliminate or modernize outdated provisions. These amendments will protect the health, safety, or welfare of citizens by maintaining reasonable restrictions by maintaining reasonable restrictions on alcoholic beverage promotion and maintaining a reasonable separation between the manufacturing, wholesaling and retail interests, to help ensure temperance, while allowing industry members additional ability to market their products.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

In 3 VAC 5-20-10, subsection B, prohibiting cooperative advertising, will be moved to 3 VAC 5-30, Tied-House. In the same section, subsection E. 2. would be amended to delete the terms "lewd" and "indecent," and subsection E. 4. would be amended to eliminate references to curative or therapeutic claims, or claims disparaging to a competitor's product.

In 3 VAC 5-20-20, the section will be rewritten to eliminate the distinction between permanent and nonpermanent point-of-sale materials, and to allow retail establishments to use all but illuminated point-of-sale materials inside their establishments. Current restrictions on the provision of such materials by industry members will be moved to 3 VAC 5-30, Tied-House. These provisions will be revised to conform to recent General Assembly action.

In 3 VAC 5-20-30, the section will be rewritten to eliminate specific language restrictions on exterior advertising signs at licensed retail establishments, and to allow for limited "Happy Hour" signage for restaurants.

In 3 VAC 5-20-40, restrictions on specific language in alcoholic beverage advertising contained in subsections A.1., A. 2., A. 3., and B.3., shall be eliminated, and the limit on the percentage of advertising space which may be occupied by the identification of the sponsor in moderation messages in college student publications currently in subsection B.5., will be eliminated. The section will be revised to apply to all types of alcoholic beverages, and will define the term "electronic media."

3 VAC 5-20-50 would be repealed.

In 3 VAC 5-20-60, subsection 2 would be amended to allow the display of novelty and specialty items on retail premises, and to allow such items to be given to patrons during tasting events. Subsection 6 would be amended to allow wholesalers to put order blanks for novelty and specialty items on packages.

Sections 3 VAC 5-20-70 and 3 VAC 5-20-80 would be repealed.

3 VAC 5-20-90 would be amended to allow coupons to be distributed on the internet and by electronic mail, and to allow beer wholesalers to affix manufacturers' coupons to the package.

In 3 VAC 5-30-10, subsection B2 would be amended to allow wholesalers to affix prices to products they have sold to a retailer.

In 3 VAC 5-30-20, the last sentence would be amended to add farm wineries to the exemptions from the provisions of this section.

In 3 VAC 5-30-60, subsection D, the wholesale value of bottle or can openers which may be given by a manufacturer, bottler or wholesaler to a retailer would be increased to \$20.

In 3 VAC 5-30-60, subsection F, glasses upon which advertising matter regarding alcoholic beverages may appear would be added to the items which a manufacturer or wholesaler could sell at reasonable wholesale price to banquet licensees.

A new section 3 VAC 5-30-80 would also be added, moving to this chapter current restrictions on the provision of various advertising items presently contained in the Advertising regulation, 3 VAC 5-20.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, please indicate.*

The regulatory action poses no disadvantages to the public or the Commonwealth. The primary advantages to the public and the agency are the simplification of alcohol advertising and tied house regulations by the more logical organization of the provisions and removal of unnecessary or outdated regulations.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
3VAC5-20-20	Retail licensees may use any non-illuminated advertising materials having a value of not more than \$250 per item that comply with 3VAC5-20-10 inside licensed establishments.	Back bar pedestals upon which advertising matter regarding spirits may appear may be illuminated.	Brand-identified back bar pedestals have been allowed for many years. Many of them are illuminated, and public comment requested a clarification that they would continue to be allowed.
3VAC5-20-30	Retailers may not include any reference to “Happy Hour” or drink specials on exterior signs.	Retailers may post one two-dimensional sign, not to exceed 17 by 22 inches, containing the terms “Happy Hour” or “Drink Specials”, and the hours during which reduced prices are charged.	Public comment received requested additional ability to advertise happy hour specials. The limited signage was felt to be an appropriate compromise allowing a restaurant to promote its business while not enticing persons to drink by citing specific low prices.
3VAC5-20-60	Manufacturers, wholesalers, or their authorized representatives conducting tastings may give no more than one novelty of specialty item not in excess of \$10 in wholesale value to each consumer provided a sample of alcoholic beverages during the tasting event.	Wholesalers may not give novelty and specialty items to patrons at tasting events.	Comments from beer and wine wholesaler associations indicated they did not favor being allowed to give such items to patrons at retail establishments.
3VAC5-20-90	Coupons may be distributed in the print	Coupons may also be distributed by electronic mail to consumers.	The board wanted to allow coupons to be

	<p>media, the internet, by direct mail, or as part of or attached to the package.</p>		<p>distributed by electronic means. Comment received suggested that the proposed reference to distribution over the internet would not necessarily include electronic mail.</p>
<p>3VAC5-20-100</p>	<p>Wholesalers would have been allowed to sponsor public events of the same types currently eligible for sponsorship by manufacturers, rather than the current restriction to co-sponsorship of charitable events.</p>	<p>This proposal has been withdrawn.</p>	<p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p>
<p>3VAC5-30-30</p>	<p>Retail licensees would be allowed to use a credit or debit card issued in the name of the licensee as "cash" for purchases from wholesalers.</p>	<p>This proposal has been withdrawn.</p>	<p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p>
<p>3VAC5-30-60</p>	<p>Manufacturers or wholesalers of wine or beer may sell at the reasonable wholesale price to banquet licensees wine glasses upon which advertising matter regarding wine may appear.</p>	<p>Manufacturers of alcoholic beverages and their authorized vendors or wholesalers of wine or beer may sell glasses upon which advertising matter regarding alcoholic beverages may appear.</p>	<p>Comments received requested extending the privilege of selling glasses to banquet licensees to manufacturers of spirits or their authorized vendors.</p>
<p>3 VAC5-30-80</p>	<p>Manufacturers and wholesalers may provide certain advertising materials to retailers.</p>	<p>Manufacturers, their authorized vendors, and wholesalers may provide certain advertising materials to retailers.</p>	<p>Comments received noted that authorized vendors of manufacturers are authorized to provide advertising materials to retailers under the provisions of §4.1-216.1 of the Code of Virginia, the section to which the board was attempting to conform its regulation.</p>

**Public comment**

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Associated Distributors LLC, t/a Associated Distributors/The Charmer Sunbelt Group (Warren L. Tisdale)	<p>Associated Distributors applauds the addition of new subsection B to Section 3 VAC 5-20-40, defining electronic media.</p> <p>Supports amendment to 3 VAC 5-20-60 allowing distribution of novelty and specialty items to consumers at tasting events. If wholesalers are to be deleted, prefer allowing manufacturers of distilled spirits and their authorized representatives the privilege.</p> <p>Amend subsection F of 3 VAC 5-30-60 to allow manufacturers and brokers of distilled spirits to sell glasses to banquet licensees.</p>	<p>Amendment to section was adopted as proposed.</p> <p>Amendment has been re-written to eliminate ability of wholesalers to give items to consumers at tasting events, but retain the privilege for manufacturers and their authorized representatives.</p> <p>Subsection F has been amended to allow manufacturers and their authorized representatives to sell glasses to banquet licensees.</p>
Casco Communications LLC, t/a Virginia Wine of the Month Club (Theodore F. Adams, III)	Supports the use of credit cards as a method for purchasing alcoholic beverage by retailers, as proposed in amendments to 3 VAC 5-30-30.	Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.
The Country Vintner (Mark Bowles)	Supports the use of credit cards as a method for purchasing alcoholic beverage by retailers, as proposed in amendments to 3 VAC 5-30-30.	Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.
DIAGEO North America (Thomas A. Lisk)	<p>Supports proposed changes to 3 VAC 5-20-10.</p> <p>Supports proposed changes to 3 VAC 5-20-20, but urges amendment to allow any items permitted to be used prior to 2007 to continue to be lawful.</p> <p>Supports the proposed changes to 3 VAC 5-20-30, but also recommends elimination of prohibition of spirits advertising on billboards.</p> <p>Supports the proposed changes to</p>	<p>Changes were adopted as proposed.</p> <p>Board prefers “bright-line” rule clearly defining allowed and prohibited items. “Grandfather” type clause would require continued application and interpretation of superseded provisions. One change was made to the proposed amendments to allow illuminated spirits back bar pedestals.</p> <p>Changes were adopted as proposed, with the addition of limited authorization for “happy hour” signage.</p>
	Supports the proposed changes to	Changes were adopted as proposed.

<p>MillerCoors LLC</p>	<p>3 VAC 5-20-40, but questions whether definition of “electronic media” is overly broad.</p> <p>Supports repeal of 3 VAC 5-20-50.</p> <p>Supports the proposed changes to 3 VAC 5-20-60, except recommends that references to moderation and responsible drinking on items distributed to patrons during tasting events must constitute at least one-third of the total message on the items.</p> <p>Supports the proposed repeal of 3 VAC 5-20-70.</p> <p>Supports the proposed repeal of 3 VAC 5-20-80.</p> <p>Supports the proposed changes to 3 VAC 5-20-100.</p> <p>Supports the proposed changes to 3 VAC 5-30-10.</p> <p>Is neutral on the proposed changes to 3 VAC 5-30-20.</p> <p>Supports the proposed changes to 3 VAC 5-30-30.</p> <p>Supports the proposed changes to 3 VAC 5-30-60.</p> <p>Supports the proposed new section 3 VAC 5-30-80, but urges amendment to allow any items permitted to be used prior to 2007 to continue to be lawful, and recommends that references to moderation and responsible drinking on napkins, placemats, and coasters must constitute at least one-third of the total message on the items.</p> <p>Supports the proposed changes in</p>	<p>Section was repealed as proposed.</p> <p>Changes were adopted as proposed. The board is of the opinion that moderation message should be the more prominent theme on novelty items distributed to consumers.</p> <p>Section was repealed as proposed.</p> <p>Section was repealed as proposed.</p> <p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p> <p>Changes were adopted as proposed.</p> <p>Changes were adopted as proposed.</p> <p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p> <p>Subsection F has been amended to allow manufacturers and their authorized representatives to sell glasses to banquet licensees.</p> <p>Board prefers “bright-line” rule clearly defining allowed and prohibited items. “Grandfather” type clause would require continued application and interpretation of superseded provisions. The board is of the opinion that moderation message should be the more prominent theme on napkins, placemats, or coasters provided to retailers.</p> <p>Amendment as adopted will still allow</p>
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<p>(William E. Burton, III)</p>	<p>3 VAC 5-20-60(2) that would allow manufacturers, wholesalers or their authorized representatives conducting tastings to give novelty and specialty items to consumers.</p> <p>Supports the proposed changes to 3 VAC 5-20-100.</p> <p>Does not support the proposed change to 3 VAC 5-30-60(D) that would increase the wholesale value of bottle or can openers that may be sold or given by manufacturers, bottlers, or wholesalers to retailers from \$10 to \$20.</p> <p>3 VAC 5-30-80(B) should be revised to include authorized vendors of manufacturers among those who can provide advertising material to retailers.</p>	<p>manufacturers and their authorized representatives conducting tastings to give such items to consumers, but does not extend privilege to wholesalers.</p> <p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p> <p>Changes were adopted as proposed.</p> <p>The proposal was amended to add authorized vendors of manufacturers.</p>
<p>Virginia Beer Wholesalers Association and Virginia Wine Wholesalers Association (Walter A. Marston, Charles R. Duvall, Jr., Dennis P. Gallagher)</p>	<p>Oppose the change in 3 VAC 5-20-60, authorizing the giving away of novelty and specialty items to consumers at retail premises.</p> <p>Oppose amendments to 3 VAC 5-20-100, allowing wholesalers to sponsor public events.</p> <p>Recommended amendment to 3 VAC 5-30-10 provision allowing wholesalers to affix retail prices to products, requiring an agreement to be entered into between the retailer and wholesaler that the retailer would hold the wholesaler harmless if there is an alleged error in the marking of the prices, for products other than those sold by the wholesaler.</p> <p>Oppose amendments to 3 VAC 5-30-30, allowing the use of credit and debit cards by retailers to pay for purchases of wine or beer from wholesalers.</p>	<p>Amendment has been re-written to eliminate ability of wholesalers to give items to consumers at tasting events, but retain the privilege for manufacturers and their authorized representatives.</p> <p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p> <p>The amendment was adopted as proposed. Since the proposal only allows wholesaler to affix prices to the products they sell to the retailer, the amendment suggested by the wholesaler associations was unnecessary.</p> <p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p>
<p>Virginia</p>	<p>Supports proposed changes to 3</p>	<p>Changes were adopted as proposed.</p>

<p>Hospitality &amp; Travel Association (Thomas A. Lisk)</p>	<p>VAC 5-20-10.</p> <p>Supports proposed changes to 3 VAC 5-20-20, but urges amendment to allow any items permitted to be used prior to 2007 to continue to be lawful.</p> <p>Supports the proposed changes to 3 VAC 5-20-30, but also recommends limited “happy hour” exterior signage.</p> <p>Supports the proposed changes to 3 VAC 5-20-40, but questions whether definition of “electronic media” is overly broad.</p> <p>Supports repeal of 3 VAC 5-20-50.</p> <p>Supports the proposed changes to 3 VAC 5-20-60, except recommends that references to moderation and responsible drinking on items distributed to patrons during tasting events must constitute at least one-third of the total message on the items.</p> <p>Supports the proposed repeal of 3 VAC 5-20-70.</p> <p>Supports the proposed repeal of 3 VAC 5-20-80.</p> <p>Supports the proposed changes to 3 VAC 5-20-100.</p> <p>Supports the proposed changes to 3 VAC 5-30-10.</p> <p>Is neutral on the proposed changes to 3 VAC 5-30-20.</p> <p>Supports the proposed changes to 3 VAC 5-30-30.</p> <p>Supports the proposed changes to 3 VAC 5-30-60.</p>	<p>Board prefers “bright-line” rule clearly defining allowed and prohibited items. “Grandfather” type clause would require continued application and interpretation of superseded provisions. One change was made to the proposed amendments to allow illuminated spirits back bar pedestals.</p> <p>Changes were adopted as proposed, with the addition of limited authorization for “happy hour” signage.</p> <p>Changes were adopted as proposed.</p> <p>Section was repealed as proposed.</p> <p>Changes were adopted as proposed. The board is of the opinion that moderation message should be the more prominent theme on novelty items distributed to consumers.</p> <p>Section was repealed as proposed.</p> <p>Section was repealed as proposed.</p> <p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p> <p>Changes were adopted as proposed.</p> <p>Changes were adopted as proposed.</p> <p>Because of opposition to the proposal by beer and wine wholesaler associations, the board decided to further study this proposal and take no action to amend the section at this time.</p> <p>Subsection F has been amended to allow manufacturers and their authorized</p>
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<p>Wine Institute (Terri Cofer Beirne)</p>	<p>Supports the proposed new section 3 VAC 5-30-80, but urges amendment to allow any items permitted to be used prior to 2007 to continue to be lawful, and recommends a further amendment to provide that retail licensees are not required to keep records of the receipt of certain advertising materials or service items.</p> <p>Recommends amending 3 VAC 5-20-90 to allow distribution of coupons by electronic mail.</p>	<p>representatives to sell glasses to banquet licensees.</p> <p>Board prefers “bright-line” rule clearly defining allowed and prohibited items. “Grandfather” type clause would require continued application and interpretation of superseded provisions. Board will consider future amendments to record-keeping requirements if burden proves to be excessive.</p> <p>The proposal was amended to allow distribution of coupons by electronic mail.</p>
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**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
3 VAC 5-20-10		<p>No cooperative advertising between suppliers or wholesalers and retailers</p> <p>No advertising shall contain any lewd, obscene, or indecent material</p> <p>No advertising may imply that a product has a curative or therapeutic effect, or be disparaging of a competitor's product</p>	<p>Retain provision but move it to Chapter 30, Tied House, the chapter dealing with separation of manufacturing and wholesale interests from retailers, because the subject matter more properly belongs there</p> <p>Retain the prohibition on obscene material, but delete references to lewd or indecent, since these terms may be considered vague</p> <p>Delete these provisions, as the prohibition of false or misleading advertising sufficiently regulates this area</p>
3 VAC 5-20-20		Retail licensees are prohibited from displaying any permanent point of sale advertising materials, and	Distinction between permanent and non-permanent materials removed as unnecessary. Any non-illuminated (except spirits back bar pedestals, which may be illuminated) advertising materials having a wholesale value of not more than \$250 per

		Numerous conditions or restrictions on what advertising materials may be provided by manufacturers or wholesalers to retailers	<p>item which comply with 3 VAC 5-20-10 may be displayed by retailers. This brings the regulation in line with statutory provisions.</p> <p>Retain provisions but move them to Chapter 30, Tied House, the chapter dealing with separation of manufacturing and wholesale interests from retailers, because the subject matter more properly belongs there</p>
3 VAC 5-20-30		Exterior signs at retail premises limited to certain specified words or terms	Restriction to specified words or terms deleted as no longer needed. Limited "Happy Hour" signage allowed.
3 VAC 5-20-40		<p>Section governs advertising of beer, wine, and mixed beverages, but not distilled spirits, which are covered separately</p> <p>Specified terms are prohibited in print or electronic media advertising</p> <p>Manufacturer, bottler, or wholesaler may place a responsible drinking message in a college student publication, as long as the name, logo, and address of the sponsor occupies no more than 10% of the advertising space</p> <p>No definition of "electronic media"</p>	<p>Amend to apply provisions to "alcoholic beverages," combining the rules for advertising spirits products into the section to simplify</p> <p>Prohibitions against specified terms deleted as no longer needed</p> <p>10% restriction to be deleted, as other restrictions are sufficient</p> <p>"Electronic media" defined to include radio, television, electronic mail, and the internet, as well as similar technologies</p>
3 VAC 5-20-50		Spirits advertising limited to newspapers and magazines, or programs for certain events; limitations on content	Section to be repealed. Spirits will be added to 3 VAC 5-20-40, and subject to the same rules as beer and wine.
3 VAC 5-20-60		Manufacturers, importers, bottlers, wholesalers or their representatives may give novelty and specialty items not in excess of \$10 wholesale value to retailers, limited to one item per retailer and one item per employee, per visit. Items cannot be displayed on the retail premises, nor can they be given to customers on the retail premises.	Section will be amended to conform with statute. Items can be given in quantities equal to the number of employees present at the time the items are delivered, and they can be displayed on the premises. During tasting events, manufacturers or their authorized representatives may give no more than one item to each consumer provided a sample of alcoholic beverages during the event.

		Wholesale licensees may not put order blanks on the package.	The restriction will be removed as unnecessary.
3 VAC 5-20-70		Alcoholic beverage advertising at fairs and trade shows limited to booths assigned to manufacturers, bottlers and wholesalers.	This section will be repealed. Advertising at fairs and trade shows will be regulated in the same manner as other advertising. The specific provision is unnecessary.
3 VAC 5-20-80		Advertising of alcoholic beverages by means of film presentations restricted to educational presentations to private groups upon request.	This section will be repealed. Film advertising will be regulated in the same manner as other advertising. The specific provision is unnecessary.
3 VAC 5-20-90		Coupons may be distributed in the print media, by direct mail, or as a part of, or attached to, the package. Wholesale beer licensees may not attach refund coupons to package.	Coupons would also be authorized for distribution by way of the internet and electronic mail, and beer wholesalers will be allowed to attach manufacturers' coupons to the package. The addition of internet distribution conforms to current custom in other industries, and there is no policy reason to continue the prohibition against allowing beer wholesalers to affix coupons to packages.
3 VAC 5-30-10		Wholesalers may not mark or affix retail prices to products.	This section will be amended to allow wholesalers to affix prices to products they have sold to a retailer. Since wholesalers are already allowed to rotate, restock, and rearrange the products on retailer shelves, affixing prices does not represent an unreasonable extension of the exception to the general tied-house prohibitions.
3 VAC 5-30-20		No retail licensee shall employ anyone engaged in manufacturing or wholesaling alcoholic beverages. No manufacturer or wholesaler shall employ anyone engaged in retailing alcoholic beverages. This section does not apply to banquet licensees or off-premises winery licensees.	Farm wineries would be added to the exemptions contained in the last sentence of this section. Farm wineries requested this change, stating that they rely heavily on part-time and seasonal labor, and not being able to hire persons who also work part-time in retail businesses restricts their ability to hire needed employees.
3 VAC 5-		Manufacturers or	The wholesale value of openers which may

<p>30-60</p>	<p>3 VAC 5-30-80</p>	<p>wholesalers may give retailers bottle or can openers having a wholesale value of not more than \$10.</p> <p>Manufacturers or wholesalers may sell at reasonable wholesale price to banquet licensees paper or plastic cups with advertising matter on them.</p>	<p>be given will be increased to \$20. The price of bottle and can openers has increased.</p> <p>Glasses with alcohol advertising would be added to the list of items manufacturers and wholesalers can sell at reasonable wholesale price to banquet licensees, and the provision will now apply to all types of alcoholic beverages.</p> <p>Tied-house restrictions formerly contained in 3 VAC 5-20-10 and 3 VAC 5-20-20 will be moved to this new section. This will put all restrictions on what may be provided to retailers by manufacturers and wholesalers in one place in the regulations.</p>
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**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

In each case, the proposed revisions lessen or remove current restrictions. The proposed regulation does not impose any new compliance or reporting requirements. It has no adverse impact on small business.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The proposed regulatory action will have no impact on the institution of the family and family stability.